

REMARKS

Status of the Claims

Upon entry of the amendment above, claims 3-35 will be pending, claims 12, 17, and 31 being independent.

Summary of the Office Action

Near the middle of page 6 of the Office action, in Section 13 thereof, claims 6 and 10 are identified as containing allowable subject matter.

As evidenced by the Examiner-initialled PTO-1449 form, the Examiner has acknowledged his consideration of our previously filed information disclosure statement.

At the top of page 2 of the Office action, in Section 1 thereof, Applicants' claim of priority and receipt of the certified copy of the priority application are acknowledged.

In Sections 2-5, on pages 2 and 3 of the Office action, various objections are made to the specification and drawings.

In Section 6 at the bottom of page 3 of the Office action, claims 1 and 7 are objected to for informalities.

Claims 1-10 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. See Section 8, on page 4 of the Office action.

Claims 1-5 and 7 are rejected under 35 U.S.C. §102(b) as being anticipated by KOWATSCH (U.S. Patent No. 4,784,404). See Section 10, beginning on page 4 of the Office action.

Claims 8 and 9 are rejected under 35 USC §103(a) as being unpatentable over KOWATSCH in view of STEPANEK et al. (U.S. Patent No. 5,501,483, hereinafter "STEPANEK"). See Section 12, beginning on page 5 of the Office action.

Response to the Office Action

A. Summary of Interview

Applicants' undersigned representative thanks the Examiner for his time given to the interview on November 21, 2003, during which time the invention was discussed, a sample of

a ski binding and mounting base, separate from the binding itself, according to the invention were shown, as were a sample of a binding according to prior art and a mounting base thereof were shown.

Discussed at the interview was a proposed claim in which the subject matter of claim 2 was combined with that of claim 1, whereby the distance of 4-10 millimeters, that had appeared in original claim 2, *i.e.*, by which the front and rear zones of the mounting base are separated in height compared to front and rear zones of a binding that is constructed to receive boots according to the standard DIN 7880, Parts I and II.

As described in paragraph 0004 of the specification of the instant application, Applicants' representative explained at the interview that the aforementioned standard provides for dimensions of front and rear end pieces for boots for both adults and children, as well as dimensions of the front and rear support surfaces of such boots.

For the interview, Applicants' representative brought a copy of the *Annual Book of ASTM Standards 2002*, Vol. 15, pp. 234-243 (Designation F 944-97, "Standard Specification for Properties of Adult Alpine Ski Boots"), which is the American version (*i.e.*, and in the English language) of the DIN 7880 standard. More specifically, the standard DIN 7880 Parts I and II correspond to the standard ASTM F 944-97. (That copy is now attached hereto.)

It was explained, with reference to the diagram on the second row of diagrams at the top of page 235 of the standard ASTM F 944-97, the dimension of the thickness of the front end of the boot sole is specified as 19 millimeters with a tolerance of 1 millimeter. Therefore, it was mentioned, a front ski binding (retaining element) that is constructed to receive a ski boot according to the standard must be consistent with that specification.

Further, Applicants' representative explained that if a retaining element for a front end of a ski boot were to be constructed according to the proposed claim (reformatted and presented herein as new independent claim 12), the front zone of the mounting base (on which the body and jaw of the retaining element are to be positioned) must be raised by between 4 and 10 millimeters with respect to the rear zone of the mounting base (on which the support device for the sole of the boot is to be positioned) compared to front and rear zones of a mounting base of

a retaining element according to the aforementioned standard. Of course, to so position the front and rear zones of the mounting base would affect the relative positions of the sole clamp and the boot support surface of the retaining element that had been constructed according to the standard.

The mounting base of the above-mentioned samples that were shown at the interview evidence the aforementioned difference in heights of the front and rear zones.

During the discussion of the ski binding of the invention, Applicants' representative explained that one benefit of the invention is that it can be used with an alpine ski boot having a thicker sole that is more comfortable for walking when the skier has released his boots from his skis. In this regard, the invention provides for a minimal modification of conventional binding(s), thereby preserving the ability to use certain molds and manufacturing techniques that have already been made and established, thereby enabling one to achieve results and benefits at a cost that would be reduced compared to larger research and development costs.

As indicated in the Interview Summary (form PTO-413), it was agreed that Applicants' proposed claim would be allowable (subject, of course, to any updated search).

B. Summary of Amendment

Applicants have amended certain paragraphs of the specification, as filed, as well as certain ones of the original claims. Claims 1 and 2 have been canceled.

Amendments to the specification include those which are introduced for the purpose of being responsive to objections made by the Examiner in the Office action to which Applicants now respond.

In addition, the claims have been amended for cosmetic reasons (*i.e.*, for improving their form) and for placing such claims in condition for allowance.

The claim proposed at the interview is presented above as new claim 12, although modified particularly with regard to its form, as further explained below.

No prohibited new matter is believed to be added.

The amendments and claims are referenced further below in connection with Applicants' discussion of the objections and rejections.

Applicants submit that the application has been placed in condition for allowance.

C. Withdrawal of Objection to the Drawing

Applicants request that the objections to the drawing, mentioned in Sections 2, 3, and 4 of the Office action, be withdrawn.

In Section 2, the drawing is objected to for not including reference numeral 13, which appears in Fig. 1.

In the amendment of paragraph 0023 of the specification, above, in response to this objection, Applicants have added reference numeral 13 as identifying, in Fig. 1, the "sliding pad" of the support element 12 (*i.e.*, the support device).

In Section 3 of the Office action, the drawing is objected to because, on page 9 of the specification (*i.e.*, in paragraph 0045), reference numerals 63 and 64 had been used for designating the support element of the embodiment of the invention there beind described.

In the amendment of paragraph 0045 of the specification, above, in response to this objection, Applicants have changed the first occurrence of "64" to "63".

In Section 4 of the Office action, three separate objections are made to the drawing.

First, the drawing is objected to because, as mentioned on page 6 of the specification (*i.e.*, in paragraphs 0024 and 0027), reference numerals 16 and 17 had been used for designating both "parallel lugs" and "parallel arms".

In the amendment of paragraph 0024 of the specification, above, in response to this objection, Applicants have changed the expression "parallel lugs" to "parallel arms", for consistency with paragraph 0027.

Second, the drawing is objected to because, as mentioned on page 8 of the specification (*i.e.*, in paragraph 0035), reference numeral 26 had been used for designating both the mounting base and the front zone thereof.

In the amendment to paragraph 0035 of the specification, above, in response to this objection, Applicants have changed the second occurrence of reference numeral 26 to "27" for the purpose of eliminating the noted inconsistency.

Third, the drawing is objected to because, as mentioned on page 9 of the specification (*i.e.*, in paragraph 0041), reference numerals 50 and 51 had been used for designating both "pivots" and "arms".

In the amendment to paragraph 0041 of the specification, above, in response to this objection, Applicants have changed the second occurrence of reference numerals 50 and 51 to "48 and 49" for the purpose of eliminating the noted inconsistency.

In view of the amendments to the specification, Applicants submit that the drawing, as originally filed, are consistent with the specification and, therefore, that the objections to the drawing should be withdrawn.

D. Withdrawal of Objection to the Specification

Applicants request that the objection to the specification, mentioned in Section 5 of the Office action, be withdrawn.

Specifically, it is asserted that Applicants had incorporated by reference subject matter of foreign applications, patents, or publication on pages 1 and 4-8 of the specification.

First, on page 1, in paragraph 0001, Applicants had incorporated-by-reference the subject matter of their priority application. Inasmuch as that subject matter appears in the application as filed, Applicants have amended paragraph 0001 to remove the language of incorporation.

On pages 4-8 of the specification, Applicants believe that the Examiner has referred to the subject matter of four separately identified French patent documents identified, respectively, in paragraphs 0018, 0023, 0026, and 0034.

For the purpose overcoming the objection, Applicants have amended paragraphs 0018, 0023, 0026, and 0034 to remove the language of incorporation regarding the French patent documents.

In view of the amendments, withdrawal of the objection to the specification is requested.

E. Withdrawal of Objection to Claims

Applicants request that the objection to claims 1 and 7 be withdrawn.

First, claim 1 has been canceled. Further, the two reasons for which claim 1 had been objected to are believed not to be relevant to the claims now presented.

Second, Applicants have amended claim 7 above in a way that adopts the Examiner's suggestion.

Accordingly, reconsideration and withdrawal of the objection is requested.

F. Withdrawal of Rejection Under 35 U.S.C. §112, Second Paragraph

Applicants also request that the rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

As noted above in connection with the objection to claim 1, claim 1 has been canceled and the reasons for which claim 1 had been rejected under 35 U.S.C. §112, second paragraph, are not believed to be relevant to the claims now presented.

Accordingly, reconsideration and withdrawal of the rejection is requested.

G. Withdrawal of Rejections Based Upon KOWATSCH and STEPANEK

Applicants request that the rejections, based upon KOWATSCH solely, and a combination of KOWATSCH and STEPANEK be withdrawn.

The following discussion will address KOWATSCH in particular inasmuch as STEPANEK is relied upon in the Office action only for the purpose of rejecting dependent claims 8 and 9. Although Applicants submit that the inventions defined by claims 8 and 9 are not rendered obvious by a combination of KOWATSCH and STEPANEK and that they are allowable in their own right, Applicants also submit that the subject matter of claims 8 and 9 should be found allowable for reasons that parent claims 1 and 7 should be found allowable.

In the amendment above, Applicants have canceled independent claim 1 and have now presented three independent claims, viz., claims 12, 17, and 31. Independent claim 12 includes subject matter from original independent claim 1 and dependent claim 2 (claims 1 and 2 canceled above).

Independent claim 12 has been presented in what Applicants submit is more readable according to U.S. patent practice, compared to a simple mechanical combination of original claims 1 and 2. For example, in the first subparagraph of claim 12, all attributes of the mounting base are presented, rather than having subsequent parts of the claim adding additional

limitations pertaining thereto. Applicants do note that they have relegated the hole(s)/bore(s) for the mounting screw(s) to dependent claim 13, inasmuch as Applicants believe that the invention can be described without specific reference to such hole(s)/bore(s). In addition, original claim 1 had referred to the front and rear zones to be "co-extensive." This limitation has been removed for two reasons, as mentioned during the interview. First, Applicants submit that the designations "front" and "rear" already specify a relative position of the two zones of the mounting base. In addition, Applicants wanted to ensure that there would be no misunderstanding or allow one to allege that "co-extensive" might be necessarily descriptive of the front and rear zones extending in a common plane. In any event, in dependent claims 16 and 22 Applicants call for the front and rear zones to extend in a common longitudinal direction (see, *e.g.*, the broken line in the illustration of the exemplary embodiment in Fig. 7.

Consistent with the discussion at the interview on November 21, 2003, referenced above, new independent claim 12 refers to the distance of 4-10 millimeters by which the front zone of the mounting base is raised from the rear zone compared to the distance in height between front and rear zones of a binding that is constructed to receive boots according to the standard DIN 7880, Parts I and II.

As specified in claim 12, at the front zone of the mounting base, the body and jaw of the binding are positioned. In the rear zone, the support device for the boot is positioned.

Thus, a function of the mounting base, which is to fix the binding with respect to the ski, is to set the connection (*i.e.*, the relationship) between the body/jaw of the binding and the support device for the boot sole.

With regard to the boot, if one were to consider the retention of the boot in a vertical direction, the boot rests at its bottom by means of its sole and it is retained at the top by the upper edge of the end piece. The sole rests on the support device (at the rear of the mounting base), the upper edge of the end piece of the sole being retained by the jaw supported/borne by the body of the binding, the body of the binding being supported/borne by the front zone of the mounting base.

According to prior art bindings, it is generally known that the front and rear zones of a binding (*i.e.*, those zones that support the body with its jaw and the support surface for the boot sole) are positioned on a common level. Indeed, in order to economize material and to reduce the bulkiness of the binding, it is generally sought to lower the body of the binding as much as possible and, therefore, to reduce the thickness of the front zone of the mounting base when one skilled in the art designs a front binding/retaining element.

This latter feature is what can be seen in KOWATSCH. In the front zone of the binding, the thickness of the mounting base is almost non-existent.

KOWATSCH provides no disclosure of raising a front zone of a mounting base between 4 and 10 millimeters compared to the front and rear zones of retaining element constructed to receive boots according to standard DIN 7880 Parts I and II. In fact, KOWATSCH characterizes his binding as a "safety" binding, which is consistent with an intention that the binding is designed for compatibility with the current standards. Thus, it would not have been obvious to have modified the binding of KOWATSCH in a way that would have resulted in Applicants' claimed invention.

A drawback raised by the invention comes from the fact that it was desired to make the front binding compatible with thicker boot soles, consequently with a boot sole having an upper edge that is raised in height. Under such a circumstance, the edge of the binding jaw is raised higher.

Traditionally, one skilled in the art would have designed a modified body for the binding, it being given that the jaw is to be raised higher.

However, an advantage of the invention is that the body and other components of the invention, which had been designed and tested for operation and validated, are conserved. That is, the binding/retaining element of the invention can use the same *active* elements (specifically, the body and jaw, for example) as conventional bindings, while a modification is made of a *passive* element, *viz.*, the mounting base.

Therefore, the time and investments needed for developing a binding according to the invention are reduced, because certain elements are already known and their manufacturing techniques and molds are already available.

Regarding the aforementioned capability of the retaining element of the invention to be compatible with boots having a thicker sole, in claim 3 Applicants call for the vertical distance between the upper surface of the boot sole support device and the sole clamp to be between 20 and 28 millimeters.

This limitation also appears in independent claim 17 and dependent claims 33 and 34; dependent claims 4, 18, 35 call for the distance to be approximately 24 millimeters.

Therefore, Applicants submit that one skilled in the art would not have been led to have modified the binding of KOWATSCH, or other conventional bindings, in a way that would have resulted in such a spacing.

In independent claim 31, Applicants have presented a claim that includes subject matter of original claim 6, which has been identified as containing allowable subject matter.

At least for the reasons given above, reconsideration and withdrawal of the rejections under 35 U.S.C. §102(b) and §103(a) are requested.

H. Information Disclosure Statement

Applicants are filing, concurrently with this reply, an information disclosure statement that brings to the attention of the Examiner U.S. Patent No. 5,921,573, which discloses in Fig. 6 thereof a ski binding having support plate 100 surrounded by an movable belt 101.

SUMMARY AND CONCLUSION

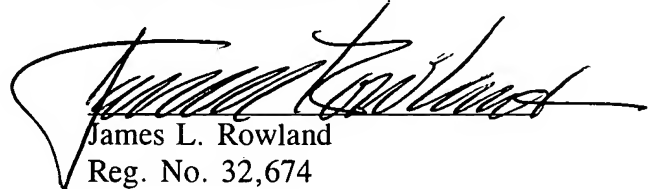
The grounds of objection and rejection advanced in the Office action have been addressed and are believed to be overcome. Reconsideration and allowance are respectfully requested in view of the amendment and remarks above.

Any fees required for acceptance of this reply as timely and/or complete, including any claim fees, can be charged to Deposit Account No. 19-0089.

Further, although an extension of time for a single month is believed to be necessary at this time, if it were to be found that an additional extension of time were necessary to render this response timely and/or complete, Applicants request an extension of time under 37 C.F.R. §1.136(a) in the necessary increment(s) of month(s) that would render this reply timely and/or complete and the Commissioner is authorized to charge any necessary extension of time fee under 37 C.F.R. §1.17 to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone or fax number given below.

Respectfully submitted,
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ATTACHMENTS:

- Request for Extension of Time
- Copy of *Annual Book of ASTM Standards 2002*, Vol. 15, pp. 234-243 (Designation F 944-97, "Standard Specification for Properties of Adult Alpine Ski Boots")
- Information Disclosure Statement